

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Friday, September 9, 2005 – 1:00 p.m. – Room W125 House Building

Members Present:

Mr. M. Keith Prescott, Chair
Sen. Lyle W. Hillyard
Rep. Wayne Harper
Rep. Rosalind J. McGee
Mr. Larry Barusch
Ms. Janis A. Dubno
Ms. Kathleen Howell
Comm. Bruce Johnson
Mr. Dixie Leavitt

Members Absent:

Mr. David Crapo, Vice Chair
Sen. Brent Goodfellow
Mr. Mark K. Buchi
Dr. Gary Cornia
Mr. Bruce Jones

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Bryant Howe, Assistant Director
Ms. Angela D. Oakes, Associate General Counsel
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. TRC Business

Chair Prescott called the meeting to order at 1:08 p.m.

MOTION: Comm. Johnson moved to approve the minutes of the August 12, 2005 meeting. The motion passed unanimously.

Mr. Howe distributed and discussed "Working Group Final Recommendations." He reviewed the issues that the Tax Reform Task Force is currently discussing and the recommendations that have been adopted.

Ms. Rockwell gave an update on the Trust and Estate Working Group. She explained that the Working Group is discussing draft legislation and will be meeting again on September 27, 2005. The Working Group will present a progress report at the next TRC meeting.

2. Review of Sales and Use Tax Exemptions

Ms. Rockwell distributed and discussed 2006 General Session draft legislation "Sales and Use Tax - Exemption for Isolated or Occasional Sales."

Mr. Barusch said that he supports the draft legislation. He said that the issues surrounding this sales and use tax exemption are complex and that he hopes that the Utah State Tax Commission is able to adopt administrative rules to provide further guidance and clarity to taxpayers.

MOTION: Mr. Leavitt moved to adopt 2006 General Session draft legislation "Sales and Use Tax - Exemption for Isolated or Occasional Sales" with a favorable recommendation to the Revenue and Taxation Interim Committee. The motion passed unanimously.

3. Land Value Tax Study

Dr. Larry Walters, Lincoln Institute of Land Policy, explained the purpose of the Institute. He presented "Land Taxes and Economic Development." He explained that a land tax is independent of improvements to land. He said that the burden of a land tax would fall on land owners and that land values would likely fall. He explained that the purpose of the TRC study regarding a land value tax is to determine whether or not it is an appropriate source of revenue for investment in the transportation infrastructure. He also explained that experience shows that if taxes on land are higher than taxes on improvements, land owners have an incentive to use their land efficiently.

Ms. Oakes distributed and discussed "Constitutional Issues Associated with a Land Value Tax." She explained that a constitutional amendment would most likely be required to impose a separate tax on land.

Mr. Robert Rees, Associate General Counsel, Legislative Research and General Counsel, distributed and discussed 2006 General Session draft legislation "Resolution on Assessment and Taxation of Land." He explained that he agrees with Ms. Oakes that the Utah Supreme Court would probably rule a land value tax as unconstitutional unless a constitutional amendment was adopted to authorize a land value tax.

Mr. Leavitt noted that land used for agricultural purposes is valued for its use in agriculture, not fair market value. He asked whether the agricultural value would also be used under a land value tax system. Dr. Walters replied that he was not sure and that this was a design question for the Legislature. One possibility would be to continue using the land's agricultural value under the land value tax.

Mr. Prescott noted that the state has critical transportation infrastructure investment needs that must be met if it is to remain an economically viable place to conduct business.

Sen. Stephenson said that he recognizes the political difficulty in implementing a land value tax. The purpose of the TRC study and to involve the Lincoln Institute of Land Policy was to determine if the idea had merit even though it may be a politically unpopular recommendation. He said that the imposition of a land value tax for transportation improvement could forestall an increase in the state motor fuel excise tax.

Sen. Hillyard said that he does not believe that most citizens consider the property tax as a source of funding for roads and highways.

4. Oil and Gas Severance Tax

Mr. Howe distributed and discussed "Utah Oil Producing Counties" and "2005 Energy Tax Incentive Act Summary."

Mr. Morris Jackson, Questar, explained that the new federal energy bill does not affect his company.

Mr. Howe distributed and discussed "Options for Severance Tax Endowment and Revenue Stabilization," "Utah Historical Oil, Gas, and Mineral Severance Tax Revenues (1964-2005)," and "Major Utah Taxes and Severance Tax Comparison." He explained options for establishing either a constitutional or statutory trust fund into which all or part of the proceeds from the state severance tax on oil and gas could be deposited

Mr. Max Miller, Parsons Behle & Latimer, presented "Oil and Gas Severance Tax: Materials Compiled for Utah Tax Review Commission."

Mr. Jackson distributed and discussed "Questar Exploration & Production: Analysis of Effective Production & Royalty Rates For Selected States." He said that there are many factors to consider when comparing between states the tax burden on the oil and gas producing industry.

Ms. Dubno said that she is examining the feasibility of a tiered tax rate structure where certain revenues are deposited into the trust fund. She said that eventually oil and gas producing counties will need to look to the trust fund revenues for help in transitioning their economies away from dependence on oil and gas production. Mr. Barusch said that the TRC should discuss the structure of the trust fund keeping in mind the volatility of these revenues.

Sen. Hillyard proposed that the TRC ask members of former Governor Walker's tax team to give their recommendations on the oil and gas severance tax and why the recommendation was made regarding the establishment of a trust fund.

Mr. Lee Peacock, Utah Petroleum Association, spoke to the TRC. He said that his industry is concerned with how revenue from federal mineral lease payments are expended.

5. Other Items / Adjourn

MOTION: Sen. Hillyard moved to adjourn the meeting. The motion passed unanimously with Rep. Harper absent for the vote.

Chair Prescott adjourned the meeting at 4:04 p.m.